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**APR 09 1999**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

John E. Logan

Loganj@wallman.com

April 9, 1999

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
TW-A325  
Washington, DC 20554

RE: *Ex parte* submission  
CC Docket 92-237 ✓  
NSD File No. 98-151

Dear Ms. Salas:

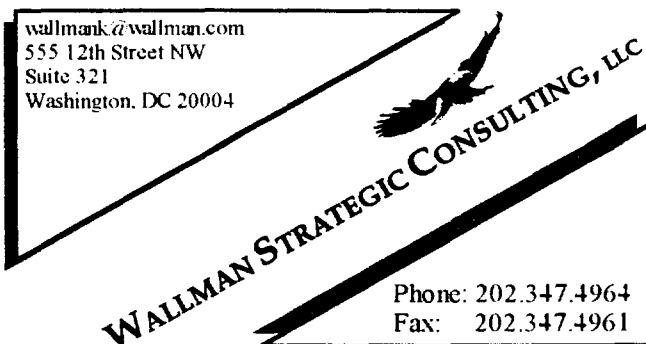
Enclosed is an *ex parte* submission related to the above docket that was submitted to Chairman Kennard today. The appropriate number of copies is enclosed.

Very truly yours,

John E. Logan

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Kathleen M. H. Wallman

April 9, 1999

The Honorable William E. Kennard  
Chairman  
Federal Communications Commission  
Washington, D.C. 20554

Re: North American Numbering Plan Administrator  
CC Docket 92-237  
NSD File No. 98-151

Dear Chairman Kennard:

Pending before the Commission is an issue of significance not only to the fair and efficient allocation of numbering resources, but to the credibility of the Commission's rules and their underlying policies. This letter, written on behalf of Mitretek Systems, addresses the current circumstances pervading the North American Numbering Administrator. Commission action is necessary to demonstrate that its rules will be enforced and that self-interest will not prevail to the detriment of the important public trust responsibilities involved.

In July 1995, the Commission commenced a process to select an entity that was not associated with the telecommunications industry to implement the North American Numbering Plan (NANP).<sup>1</sup> The NANP is the basic numbering scheme permitting interoperable telecommunications service within the United States, Canada, Bermuda, and most of the Caribbean. The NANP's efficient and fair operation is a critical element of a ubiquitous communications system. Subsequent to the AT&T divestiture, the responsibilities of the North American Numbering Plan Administrator (NANPA) was vested in Bellcore, which was owned by the Regional Bell Operating Companies. In its July 1995 action, the Commission established the North American Numbering Council (NANC). One of the NANC's foremost responsibilities was to recommend to the Commission an independent non-government entity, not closely associated

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<sup>1</sup> Administration of the North American Numbering Plan, Report and Order, CC Docket No. 92-237, 11 FCC Rcd. 2588 (1995).

with any particular telecommunications industry segment, to serve as the new NANPA. The Telecommunications Act of 1996 affirmed the Commission's direction that an impartial numbering administrator is critical in a competitive environment. Section 251(e) of the Communications Act requires the Commission to designate one or more impartial entities to administer numbering and to make such numbering available on an equitable basis.

The NANC pursued a rigorous and exhaustive process to designate a new NANPA. The NANC evaluated several entities for technical, financial resources and cost. It also recommended to the Commission a standard to ensure that the NANPA, in substance and appearance, was impartial. These neutrality provisions were adopted by the Commission, are set forth in 47 CFR section 52.12(a)(i), and require that the NANPA be a non-government entity that is "impartial and not aligned with any particular telecommunications industry segment."<sup>2</sup>

The NANC did not reach consensus on the NANPA designation. Thirteen members favored Lockheed Martin. Eleven members supported Mitretek. In its October 7, 1997 Order, the Commission designated Lockheed Martin as the new NANPA. Mitretek was designated the alternate. Less than one year later, Lockheed announced the formation of Lockheed Martin Global Telecommunications.<sup>3</sup> On October 22, 1998, Lockheed advised the Commission and the NANC that because of its acquisition of Comsat, and in order to adhere to the Commission's neutrality standards, it intended to sell its NANPA responsibilities. Later, on December 21, 1998, Lockheed Martin announced that Warburg, Pincus & Co was the intended buyer. The Commission, through the Common Carrier Bureau, has commenced an evaluation of the transfer.

The purpose of reciting this history is two-fold. The first is to emphasize the degree the Commission went to formulate a standard ensuring that the NANPA was fair and impartial, that adherence to this standard is a critical element in assigning and administering number resources. Second, the history demonstrates that despite the clarity of the standard, the designated NANPA proceeded to violate it. This blatant departure from the Commission's rules appears to have been overtaken by the process commenced to evaluate Lockheed's proposed successor. Unless the Commission takes action to enforce its own rules against the present administrator, the neutrality standard as well as the Commission's credibility that its rules serve important public trust policies, will be severely eroded.

The record is clear that prior to its announced acquisition of Comsat, Lockheed embarked upon a course where it aligned itself with several telecommunications industry segments. It established a telecommunications subsidiary whose very purpose is inconsistent with the standards the NANPA is obligated to adhere to. Its public actions include:

- In August 1998, Lockheed Martin announced the formation of Global Telecommunications. Its goal is to capture a greater portion of the worldwide network services market.<sup>4</sup>
- Lockheed Martin states that its core business spans aeronautics, electronics, energy, information and services, space systems integration, and telecommunications. It is organized into six major business areas, one of which is telecommunications. Lockheed Martin states that it is expanding to become a worldwide telecommunications services provider, and its

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services range from hardware to network management to transmission.<sup>5</sup> It seeks to provide space and terrestrial carrier services, global transmission services, wholesale capacity and end-to-end transport and applications solutions for telecommunications services.<sup>6</sup>

- On September 20, 1998, Lockheed Martin announced its intention to acquire Comsat Corporation. Comsat provides satellite delivered telecommunications services that are interconnected to the public switch network. Its revenues are derived from telecommunications services. Its customers, as well as competitors, have a substantial interest in the administration and allocation of numbering resources.
- Lockheed Martin's telecommunications subsidiary has annual revenues of approximately \$350 million. The acquisition of Comsat will bring revenues to approximately \$1 billion.<sup>7</sup>
- Lockheed Martin has entered into a contractual arrangement with Nortel. The two companies have agreed to market joint solutions to the satellite and terrestrial communications markets.<sup>8</sup>
- Lockheed Martin has advocated strenuously in Commission proceedings, reflecting its financial interest in Comsat. In IB Docket 98-192, the Commission proposed that companies other than Comsat be permitted to contract for capacity directly from Intelstat, the international satellite system of which Comsat is presently the sole signatory and equity investor. Comsat controls interexchange carrier access to Intelstat facilities. Comsat and Lockheed oppose the Commission's proposal.<sup>9</sup>

The policy behind the Commission's neutrality standard goes directly to its obligation to ensure, particularly in a competitive environment, that entities who depend upon an important public resource, numbers, have confidence that the entity entrusted with such responsibility will be fair and impartial. This is critical especially since several geographic areas are beset by severe constraints in number availability.<sup>10</sup> Moreover, the NANPA possesses market sensitive information such as where numbers are in short supply, where and what carriers are seeking numbers, and what markets segments are being pursued. A NANPA that is affiliated with an entity that engages in the telecommunications market, as Lockheed Martin does, violates the fundamental premise that the NANPA responsibilities are fiduciary in nature. The fidelity of such a responsibility lies with the public, not the self-interest of the NANPA's owner.<sup>11</sup>

In its decision designating Lockheed Martin as the NANPA, the Commission stated that if Lockheed Martin defaulted on its obligations, Mitretek, as the alternate, would be allowed to assume the NANPA responsibilities. Any reasonable review of the circumstances must conclude that Lockheed Martin's conduct constitutes default. The Commission's decisions and rules recognize that there is no element of the telecommunications industry that does not have a direct tangible relation to the North American public switch network and that numbering resources that

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<sup>5</sup> [www.lmco.com](http://www.lmco.com).

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<sup>7</sup> New York Times, February 2, 1999 at C1.

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are critical to its efficient operation. Lockheed Martin has made a decision to pursue business opportunities in this area.

What has evolved since last September, when Lockheed Martin announced its telecommunications subsidiary, is not scrutiny of Lockheed Martin's conduct, but an extended review of the proposed sale of the NANPA to Warburg, Pincus & Co., an entity with extensive telecommunications holdings. The resulting delay created by Lockheed Martin has had a detrimental impact on efficient and effective numbering administration. When it competed among four entities to be designated the NANPA, Lockheed Martin represented it would adhere to the Commission's neutrality standards. However, within one year Lockheed Martin proceeded to violate these standards. That the Commission has taken no action fuels the perception that its rules may be molded to fit the self-interest of Lockheed Martin or its chosen successor, not the public trust responsibilities the Commission imposed on the NANPA.

The rules the Commission issues to implement the law matter. In this circumstance, not only is the neutrality standard important for ensuring a competitive market, but that a valuable public resource is administered fairly and beyond reproach. The standard demanded of the North American Numbering Plan Administrator was well defined. An entity that sought to be designated comprehended that it could not be aligned with any particular telecommunications industry segment. Here there is a blatant default on the part of Lockheed Martin; it established a Global Telecommunications subsidiary whose very purpose was to compete in markets for which its affiliate subsidiary administers numbering resources. In an era where it has been made clear that enforcement of the Commission's rules must be swift and effective,<sup>12</sup> the evidence regarding

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<sup>12</sup> Remarks of William Kennard, Chairman, Federal Communications Commission, to the USTA's Inside Washington Telecom Conference (April 27, 1998).

default on the part of the present NANPA is clear and Commission action to address the circumstance is imperative. To do otherwise will undermine the force and effectiveness of all its rules and policies.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kathleen M.H. Wallman', written in a cursive style.


Kathleen M.H. Wallman

**Copies provided to:**

**The Honorable Susan Ness  
The Honorable Harold Furchtgott-Roth  
The Honorable Michael Powell  
The Honorable Gloria Tristani  
Lawrence Strickling, Chief, Common Carrier Bureau  
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Jeannie Grimes, Network Services Division**

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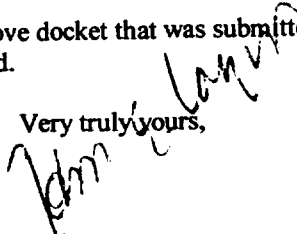
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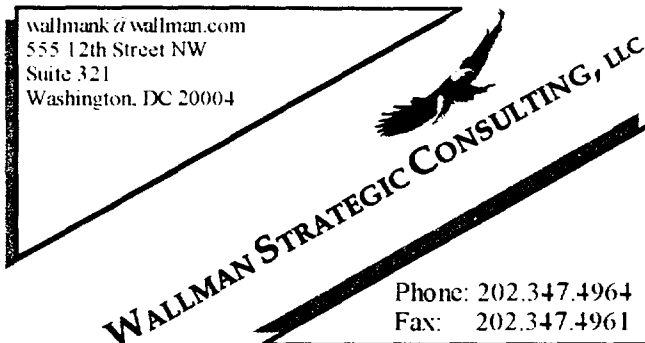
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